

REMARKS

Claim 56 has been canceled. No claims have been added. Claims 36, 38-41, 42, 49, and 53 have been amended merely to define the invention with more clarity. Accordingly, Applicants assert that no claims have been narrowed within the meaning of Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., No. 95-1066, 2000 WL 1753646 (Fed. Cir. Nov. 29, 2000). Additionally, Applicants assert that all amendments are supported by the application-as-filed and that no new matter has been added. Claims 36-55 and 57-65 remain in the application. Reconsideration of the application is requested in light of the foregoing amendments and following remarks.

Rejection of Claims under 35 U.S.C. §112, 2nd Paragraph

Claims 40-42 stand rejected under 35 U.S.C. §112, 2nd Paragraph as indefinite. Regarding Claim 40, the examiner asserted that there was insufficient antecedent basis for "said at least one sheet" in line 2.

The offending language has been replaced by said liquid distribution layer, for which there is adequate antecedent basis. Accordingly, this basis of rejection has been suitably resolved, and the rejection should be withdrawn.

Regarding Claim 41, the examiner asserted that there was insufficient antecedent basis for "the undulating strip of material" in line 1.

The offending language has been replaced by the undulating layer. Antecedent basis for the undulating layer has been included in parent Claim 36 by amendment, discussed hereinafter. Accordingly, this basis of rejection has been suitably resolved, and the rejection should be withdrawn.

Regarding Claim 42, the examiner asserted that UCTAD should be replaced with the full descriptive phrase for which it is an acronym. The acronym has been so replaced, both in Claim 42 and in corresponding Claim 53. Accordingly, this basis of rejection has been suitably resolved, and the rejection should be withdrawn.

Rejection of Claims under 35 U.S.C. §102(b)

Claims 36-40, 43-49, 54-56, and 58-59 stand rejected under 35 U.S.C. §102(b) as being anticipated by Chappell et al (h1511). Applicants respectfully traverse the rejection. Claim 36 has been amended to recite, at subparagraph (c), an undulating layer between the liquid permeable layer and the liquid impermeable layer. Subparagraph (d) now recites the liquid distribution layer, positioned between the undulating layer and the liquid impermeable layer. It is the liquid permeable layer which bears the openings formed after fabrication of the respective web of sheet material.

By contrast, the openings referred to by the examiner in the reference are above the undulating layer. Thus, the structure claimed in Claim 36 distinguishes over the structure of the reference. Accordingly, applicants respectfully request withdrawal of the rejection of Claim 36 under 35 U.S.C. 102(b).

Claims 38-41 have been amended to recite the undulating layer thereby following the antecedent basis change in Claim 36.

Dependent Claims 37-48 are patentable over the reference by virtue of their dependence from allowable Claim 36, as well as on their own merits.

For example, Claim 37 recites that the openings are mechanically formed. Contrary to the examiner's suggestion, Buenger does not cure the defect of Chappell et al.

For example, Claim 40 recites that the undulating layer is connected to the distribution layer which bears the openings.

For example, Claim 41 recites that the undulating layer is pigmented to a desired level of pigmentation.

For example, Claim 47 recites that the liquid distribution layer and the liquid storage layers are connected in a point-like manner. The examiner asserts that the reference shows such point-like adhesion. Applicants disagree. The adhesion of the undulating strip in Chappell et al would, if anything, develop adhesion in a linear configuration, not a point-like configuration.

For example, Claim 48 recites funnel-shaped openings. The examiner states that Chappell et al disclose an absorbent article wherein the openings in the liquid distribution layer comprise funnel-shaped openings. Applicants disagree. Rather, the

openings, such as they are in Chappell et al, are longitudinally-extending channels which extend along the length of the layer, which are structurally different from funnel-shaped openings which extend through the thickness of the layer, as claimed.

Turning now to the rejection of Claim 49, Claim 49 has been amended to recite that areas of the liquid distribution layer have passages defining openings (30) extending therethrough, said passages tapering inwardly toward the liquid storage layer.

By contrast, the references are devoid of any teaching or suggestion of such tapering passages. Accordingly, Claim 49 is allowable over the reference. Withdrawal of the rejection, and early allowance of Claim 49 are respectfully requested.

Dependent Claims 50-55 and 57-60 depend from Claim 49 and are thus allowable based on their dependence from allowable Claim 49 as well as on their own merits.

For example, Claim 57 recites the passages having feet at tapering ends thereof.

For example, Claim 58 recites the passages being disposed exclusively in one or both of the front and rear areas.

Accordingly, applicants submit that all rejections based on 35 U.S.C. 102(b) have been overcome. Applicants respectfully request withdrawal of all rejections based on 35 U.S.C. 102(b), and allowance of the respective claims.

Rejection of Claims under 35 U.S.C. §103(a)

Claim 42 stands rejected under 35 U.S.C. §103(a) as unpatentable over Chappell et al in view of 6,011,195 Muhs et al. Applicants respectfully traverse the rejection.

To start, Claim 42 is patentable on the basis of its dependence from allowable Claim 36. Second, the fact that Muhs et al teaches UCTAD material as useful as a material in feminine hygiene structure does not negate patentability at a different location and in a different structure, in a feminine hygiene structure, as in the instant application.

The examiner states that the specification does not state that UCTAD solves any particular problem or produces any unexpected results. Applicants disagree. The specification teaches the importance and value of UCTAD at page 4 line 12 to page 5 line 5, and at page 13 lines 1-10. Accordingly, the use of UCTAD at the location, and for the purpose specified, is patentable over the references. Accordingly, the rejection based on the combination of Chappell et al and Muhs et al cannot be sustained and should be withdrawn. Accordingly, applicants request withdrawal of the rejection of Claim 42 on the basis of 35 U.S.C. 103(a) and allowance of Claim 42.

Double Patenting Rejection

Claims 36-65 stand rejected under the judicially created doctrine of double patenting, over Claims 1-4 and 6-45 of US 6,241,714. A Terminal Disclaimer is submitted herewith, obviating the double patenting rejection.

Applicants note that independent Claims 61 and 62 have not been rejected on the merits. Accordingly, applicants presume that the examiner agrees that Claims 61 and 62 are patentable over the references of record.

Applicants thus submit that all bases of rejection and objection have been overcome, and that all claims as presented herein are allowable over all references of record. Allowance of all claims is respectfully solicited.

No fee is believed to be due. Should any fee be properly due, or if any refund is due, kindly charge same, or credit any overpayment, to Deposit Account 23-2130.

Please feel free to contact me with any questions, comments or concerns, at the telephone number listed at the end of this document.

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APPENDIX A

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims

Please cancel Claim 56 without prejudice and with right of re-entry into this application or any other application.

Kindly amend Claims 36, 38-42, 49, and 53 as follows.

36(Amended). An absorbent article having a front area and a rear area, and a central area between the front and rear areas, said absorbent article comprising:

- (a) a liquid-permeable layer, which is turned toward a body of a wearer during use of the absorbent article;
- (b) a liquid-impermeable layer, which is turned away from such body of such wearer during use of the absorbent article;
- (c) an undulating layer disposed between the liquid permeable layer and the liquid impermeable layer and extending between the front area and the rear area;
- (d) a liquid distribution layer disposed between the undulating [liquid-permeable] layer and the liquid-impermeable layer, and extending between the front area and the rear area, said liquid distribution layer comprising at least one web of sheet material, said at least one web of sheet material having openings therein formed after fabrication of the respective web of sheet material; and

(e)[(d)] a liquid storage layer between the liquid-impermeable layer and the liquid distribution layer, said liquid distribution layer transferring fluid to at least part of the liquid storage layer located in one or both the front area and the rear area of the absorbent article.

38(Amended). An absorbent article as in Claim 36 wherein the undulating [liquid distribution] layer selectively facilitates transfer of fluid into one or both the front area and the rear area of the absorbent article.

39(Amended). An absorbent article as in Claim 36, the undulating [liquid distribution] layer comprising undulations arranged so as to form transport channels extending along a longitudinal direction of said absorbent article.

40(Amended). An absorbent article as in Claim 36 wherein the undulating [liquid distribution] layer comprises an undulating strip of material, connected to said liquid distribution layer [at least one sheet] which bears the openings.

41(Amended). An absorbent article as in Claim 39 wherein the undulating layer [strip of material] is sufficiently pigmented that such pigment prevents visible discernment of the liquid storage layer.

42(Amended). An absorbent article as in Claim 36 wherein said at least one web comprises an [UCTAD] uncreped through-air-dried material.

49(Amended). An absorbent article having a front area and a rear area, and a central area between the front and rear areas, said absorbent article comprising:

- (a) a liquid-permeable layer disposed toward a body of a user during use of the absorbent article;
- (b) a liquid-impermeable layer disposed away from such body of such user during use of the absorbent article;
- (c) a liquid distribution layer, which comprises discrete passages therethrough, said discrete passages promoting movement of liquid toward the liquid-impermeable layer, said liquid distribution layer being disposed between the liquid-permeable layer and the liquid-impermeable layer; and
- (d) a liquid storage layer disposed between the liquid-impermeable layer and the liquid distribution layer, said liquid distribution layer transferring fluid to at least part of the liquid storage layer of the absorbent article,

areas of said liquid distribution layer having passages defining openings (30) extending therethrough, said passages tapering inwardly toward the liquid storage layer and whereby the absorbent article (10) can transfer liquid from the liquid distribution layer (22) toward the liquid storage layer (24).

53(Amended). An absorbent article as in Claim 50 wherein the additional strip of material comprises an [UCTAD] uncreped through-air-dried material.